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9 Attorneys for Defendant Tri-State Memorial Hospital

10
11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF WASHINGTON

13 JULIE A. SEMINARA,)
14) No.
15 Plaintiff,)
16 vs.) **NOTICE OF REMOVAL**
17 TRI-STATE MEMORIAL HOSPITAL,)
18)
19 Defendant.)

20
21 Defendant Tri-State Memorial Hospital (“Tri-State”), by and through its
22 attorneys, Dale A. De Felice and Paul S. Stewart of Paine Hamblen LLP, hereby
23 gives notice of removal, pursuant to 28 U.S.C. § 1446, of the above-entitled
24 action from the Asotin County Superior Court to the United States District Court
25 for the Eastern District of Washington.
26

27 NOTICE OF REMOVAL - PAGE 1

28
PAINE HAMBLÉN LLP
717 WEST SPRAGUE AVENUE, SUITE 1200
SPOKANE, WASHINGTON 99201-3505
PHONE (509) 455-6000

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3 1. The above-entitled action was filed on July 23, 2018 in Asotin
4 County Superior Court, under Cause No. 18-2-00147-02. Attached as Exhibit A
5 is a true and correct copy of the Summons and Complaint, and the undersigned's
6 Notice of Appearance, which constitute all the pleadings filed to date in the
7 Asotin County action.
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9 2. On July 23, 2018, Tri-State was served via David Gittins, its
10 registered agent, with a copy of the Summons and Complaint.
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12 3. The case involves a claim of employment discrimination based on
13 an alleged disability.
14

15 4. This is a civil action of which this Court has original jurisdiction
16 pursuant to 28 U.S.C. § 1331 in that Plaintiff asserts claims which arise under
17 the Constitution, laws, and treaties of the United States, namely, the Americans
18 with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq.
19

20 5. Plaintiff alleges that Tri-State discriminated against her by
21 terminating her employment agreement with Tri-State based on Plaintiff's status
22 as "a disabled person within the meaning of the [ADA]." *See* Exhibit A,
23 attached, Complaint at ¶ 4.3. Additionally, Plaintiff claims that Tri-State
24 retaliated against her for asserting her rights available under the ADA, in
25
26

1 violation of 42 U.S.C. § 12203. *Id.* at ¶ 5.2.

2 6. Plaintiff also asserts state law causes of action for “Damages in
3 Reasonable Reliance on Defendant’s Promises” and “Breach of Contract.” *Id.* at
4 pgs. 9 – 10. These claims stem from Tri-State’s employment agreement with
5 Plaintiff, which it terminated after Plaintiff failed to meet certain conditions of
6 the agreement.
7

8 7. Plaintiff’s state law claims arise from the same nucleus of facts as
9 Plaintiff’s (federal) discrimination and retaliation claims, and the events giving
10 rise to the alleged breach(es) occurred at the same time (or soon after) the
11 alleged discrimination/retaliation took place. The state law claims do not
12 involve novel or complex issues of state law and do not predominate over the
13 federal claims.
14

15 8. This Court may exercise supplemental jurisdiction over Plaintiff’s
16 state law claims because these claims “are so related to claims in the action
17 within such original jurisdiction that they form part of the same case or
18 controversy under Article III of the United States Constitution.” 28 U.S.C. §
19 1367(a). Exercising supplemental jurisdiction over Plaintiff’s state law claims
20 in this case would “sensibly accommodat[e] the values of economy,
21 convenience, fairness and comity.” *Executive Software N. Am., Inc. v. United*
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1 *States Dist. Court*, 24 F.3d 1545, 1557-58 (9th Cir. 1994); *see also Ruiz v.*
2 *Fernandez*, CV-11-3088-RMP, 2012 WL 1442556, at *2 (E.D. Wash. Apr. 26,
3 2012) (asserting supplemental jurisdiction over the Plaintiffs' state law breach of
4 contract, wage law, and quantum meruit claims, which arose from "the same
5 employment period and conditions with the Defendants as the federal claims and
6 arise out of the same common nucleus of operative facts").
7
8

9 9. This action may be removed to this Court by Tri-State pursuant to
10 the provisions of 28 U.S.C. § 1441(c).
11

12 10. Thirty (30) days have not yet expired since this action became
13 removable by Tri-State to the United States District Court, Eastern District of
14 Washington.
15

16 11. Venue is proper in the Eastern District of Washington, pursuant to
17 28 U.S.C. § 1391(b), on the grounds that a substantial part of the events giving
18 rise to the claim occurred within the Eastern District of Washington.
19

20 12. Pursuant to 28 U.S.C. § 1446(d), Tri-State is giving written notice
21 of the removal of this action to counsel for the Plaintiff and filing a copy of the
22 written notice with the Asotin County Superior Court Clerk.
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25 ///

1 WHEREFORE, Tri-State requests that the above-entitled action be
2 removed from Asotin County Superior Court to the United States District Court
3 for Eastern District of Washington.
4

5 DATED this 17th day of August, 2018.

6 PAINE HAMBLÉN LLP
7

8 By: /s/ Dale A. De Felice
9 DALE A. DE FELICE,
10 WSBA # 21373
11 PAUL S. STEWART,
12 WSBA # 45469
13 Attorneys for Defendant Tri-State
14 Memorial Hospital
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of August, 2018, I caused to be served the foregoing **NOTICE OF REMOVAL** by the method indicated below and addressed to the following:

<u> </u> VIA CM/ECF SYSTEM	Scott G. Boyce
<u> X </u> VIA U.S. MAIL (Postage Prepaid)	Law Offices of Bohrsen Stocker
<u> </u> VIA OVERNIGHT MAIL	Smith Luciani PLLC
<u> </u> VIA FAX TRANSMISSION	312 W. Sprague Avenue
	Spokane, WA 99201

 /s/ Dale A. De Felice
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